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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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DARBY & DARBY, PC P.O. BOX 5257 NEW YORK, NY 10150-5257			EXAMINER JONES III, CLYDE H	
			ART UNIT 2623	PAPER NUMBER

DATE MAILED: 10/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/747,424	STETTNER, ARMANDO PAUL	
	Examiner	Art Unit	
	Clyde H. Jones III	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 and 24-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 and 24-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-22 and 24-49 in the 6/12/2006 Remarks on pages 9-12 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 15-21 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter as follows.

Claims 15-21 define a machine - readable medium embodying functional descriptive material. However, the claim does not define a computer-readable medium or memory and is thus non-statutory for that reason (i.e., "When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized"). The examiner suggests amending the claim to embody the program on "computer-readable medium" or equivalent in order to make the claim statutory. For example, the claimed **"a machine-readable medium that provides machine-executable instructions when executed, cause a machine to:"** should be changed to the following:

-- a computer-readable medium encoded with computer executable instructions, that when executed by the computer, cause the computer to --.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 15-21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. In claim 15, lines 1-2, the claimed "machine-readable medium having stored thereon instructions" is not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

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only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-6, 9-17, 19-21, 27, and 31-39 rejected under 35 U.S.C. 102(e) as being anticipated by Allibhoy et al. (US 6,980,972 B1).

Regarding claims 1 and 15 Allibhoy teaches a method (and corresponding article of manufacture comprising machine-readable medium having stored instructions), comprising:

detecting a response, to an interactive advertisement, sent from a client terminal103 – fig.1 (col. 5, lines 13-15, 21; col. 6, lines 61-62,66-67; col. 12, lines 26-30; col. 22, lines 64-65; server system 101,109 detects user response to an interactive advertisement) of a customer while the customer is viewing the interactive advertisement within a broadcast segment (col. 21, lines 34-35; col. 22, lines 58-61,64-67; col. 13, lines 1-5; col. 22, lines 25-26; col. 6, lines 49-52; col. 12, lines 25-33);

identifying customer information from the detected response (col. 6, lines 61-67; col. 7, lines 55,61-62; col. 8, lines 6-7,8-10,12-13; col. 16, lines 19-21col. 12, lines 3-4,12-20; system extract user info from the response and access info from user information/profile databases 111,113);

correlating the identified customer information (request information, location information, info about what the user desires, receiver capability, profile information, etc.) to merchant information to identify a specific (designated) merchant (content provider 105, i.e., the advertiser/service/good provider) (col. 7, lines 8-11; col. 7, lines

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46-48; col. 7, line 64-col. 8, line 13; col. 16, lines 23-26; col. 8, lines 15-17; col. 13, lines col. 15, lines 37-43,56-57; col. 17, line 67-col. 8, line 4); and

triggering (activating) notification of the identified specific merchant (col. 22, lines 21-23; col. 5, lines 60-63; col. 8, lines 15-17,20-21) to allow (give the opportunity to) the specific merchant to initiate communication with the customer (col. 17, lines 44-47; col. 5, lines 21-22; col. 18, lines 10-14; in which sales leads are generated which provides a selling opportunity that the content provider may willingly initiate response/selling to the user; col. 15, lines 45-47,54-56; col. 16, lines 24-26; col. 17, line 67-col. 8, line 4; the content provider may be unwilling to communicate with the requested user or may affirmatively initiate response to the user).

Regarding claims 2 and 3, Allibhoy teaches an interactive (enhanced) video/television system (col. 4, lines 55-56; col. 5, lines 1-2,15,20-22,30-31,35-36,55).

Regarding claims 4 and 16, Allibhoy teaches customer info comprises an identification code corresponding to the client terminal (receiver) (participant ID number; col. 12, line 20,9-10).

Regarding claim 5 and 17, Allibhoy teaches correlating a characteristic associated with the interactive advertisement (product type categorization associated with the advertisement or location of the content provider for the advertised product, etc.) to the merchant information to enable identification of the specific merchant based

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on the detected response (col. 15, lines 56-57; in which the identified merchant is based on the product offered in the advertisement the user responded to; col. 7, line 64-col.8, line 7- location info characteristic is correlated to the content provider location information for choosing an appropriate merchant based on response/user information).

Regarding claim 6, Allibhoy teaches the characteristic associated with the interactive advertisement is one of a channel (network) in which the interactive advertisement was provided (col. 8, lines 3-7) an time in which the customer responded (transacted) to the interactive advertisement (col. 11, lines 63-64).

Regarding claims 9 and 19, Allibhoy teaches triggering notification of the identified specific merchant comprises:

completing a pre-order template (a sales/purchase lead is generated; col. 5, lines 20-22) including at least some of the identified customer information (location information, level of service, profile info [preferred shipping, credit card, billing], product requested, etc col. 7, lines 48,65; col. 12, lines 14-21; col. 16, lines 29-36; col. 17, line 67-col. 8, line 4) and the merchant information (ATV parameter and content provider authorization and merchant look and feel information col. 8, lines 10-17; col. 16, lines 29-36; col. 17, line 67-col. 8, line 4); and

sending the completed pre-order template to the identified specific merchant prior to an actual order being sent (sales leads are provided to sellers before a purchase so

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that the seller may help a user to make an actual purchase; col. 8, lines 20-24,38-44 in which the user elects not to purchase or continue interaction).

Regarding claim 10, Allibhoy teaches sending one of a telephone message (col. 4, lines 60-63 & col. 5, lines 3-6; in which the system/network comprises a telephonic network operator 101 for the transmission/provision of messages and services – NOTE: in the alternative if the applicant does not agree with the examiner's interpretation view the obviousness rejection below).

Regarding claim 11 and 21, Allibhoy teaches based on trigger information that specifies an address (URL) of the specific merchant that is capable of being sent along with the interactive advertisement (col. 6, lines 64-67; col. 5, line 55; col. 6, lines 14-20; col. 16, lines 12-16; col. 16, lines 46), redirecting the client terminal to the address of the merchant specified by the trigger information (col. 5, lines 30-34,55; col. 6, lines 13-22; col. 13, lines 39-44; col. 7, lines 46-48; col. 22, lines 27-33; col. 16, lines 9-16; in which URLs and ATV address embedded in the advertisement, via ATVEF standard for example, are used to reroute content provider/merchant information with the client terminal).

Regarding claim 12, 20, 34, 35 and 36, Allibhoy teaches sending an indicator along with the interactive advertisement, wherein detecting the response to the interactive advertisement comprises detecting customer activation of the indicator (col.

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5, line 65-col. 6, line 4; col. 7, lines 29-36; col. 12, lines 35; col. 20, lines 19-24, 35-46; col. 22, lines 64-66; col. 20, line 53-col. 21, line 42).

Regarding claim 13, Allibhoy teaches registering a plurality of merchants for interactive advertisements, including obtaining corresponding merchant information from the registered merchants (col. 15, line 66-col. 16, line 7; col. 15, lines 35-42; col. 18, lines 1-10; col. 15, lines 1-5).

Regarding claim 14, Allibhoy teaches communication between the identified merchant and the customer is conductible via one of a telephone (col. 5, lines 2-4), video communication (col. 5, lines 5-11), computer linking (col. 5, lines 1-11), web site (col. 5, lines 1-5; col. 4, lines 58-60; col. 5, lines 55; col. 6, lines 64-66).

Regarding claim 27, Allibhoy teaches registering a merchant-preferred method (look and feel, technical, and business rules) for automatically notifying the specific merchant when the customer response is detected (col. 8, lines 8-10; in which the notification is tailored to fit the customer's display).

Regarding claim 31, Allibhoy teaches registering a merchant-preferred category of customers from which to receive responses (col. 7, lines 46-48, 52-54; col. 7, lines 63-65; col. 8, line 7; col. 15, lines 54-57; col. 17, lines 35-48; col. 17, line 67-col. 18, line 10).

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Regarding claim 32 and 38, Allibhoy teaches registering a merchant-preferred category of customers comprises registering a category of customers from a particular group geographic area (col. 22, lines 21-35; col. 7, lines 63-col. 8, line 7).

Regarding claim 33, Allibhoy teaches registering a merchant-preferred category of customers comprises registering a category of customers determined to be frequent shoppers of a particular product (col. 12, lines 14-15, 18-21).

Regarding claim 37, Allibhoy teaches correlating the identified customer information to merchant information to identify a specific merchant from a plurality of merchants with the interactive advertisement (col. 17, lines 38-48; col. 17, lines 65—col. 8, line 10; col. 15, lines 54-57; col. 13, lines 14-16; col. 7, lines 46-54).

Regarding claim 39, Allibhoy teaches correlating the identified customer information to merchant information to identify a specific merchant based at least in part on a type of response (additional information request, purchase request, add to shop cart, etc.) provided by the customer (col. 8, lines 48-61; col. 16, lines 61-63; col. 6, lines 53-60; col. 22, lines 64-col. 23, line 3).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 7, 22, and 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allibhoy et al. (US 6,980,972 B1) in view of Libman (US 5,987,434).

Regarding claims 7, 22 and 26, Allibhoy teaches the system of claim 1 above and further teaches communication between the specific merchant and the customer via telephone (col. 5, lines 2-3) and video (col. 9, lines 8-9,12). Allibhoy even further teaches generating sales leads for sellers to interactively sell/pitch their products in a tailored/customized format to the user because it is more likely to conclude in a successful sale given the user's demonstrated interests (col. 5, lines 20-23; col. 17, lines 50-63; col. 18, lines 10-14).

However, Allibhoy fails to specifically disclose video conferencing.

In an analogous art, Libman teaches that in an individualized automated client communication system (col. 14, lines 10-18, 33) it is desirable to provide a network that provides automated documents (e.g., additional product information) with simultaneous video conferencing (col. 14, lines 54-57; in which seller and client may see each other while talking) for making the client informed so they will desire to purchase goods and services (col. 14, lines 18-21).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify the system of Allibhoy to include video conferencing as taught by Libman (e.g., via internet or videotelephonic) for the added

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advantages of providing direct selling (i.e., audio/visual real time) interaction enabling the customer to more freely ask questions (Libman - col. 14, lines 18-20) and enabling the seller to present a more effective personalized sell so that the customer is more likely to spend money (Allibhoy – col. 18, lines 10-15) and for the advantage of providing better user access and comfort by enabling hearing impaired viewers to use the system with direct interaction via sign-language.

Regarding claim 24 it is analyzed and rejected the same as claim 9 above.

Regarding claim 25 it is analyzed and rejected the same as claim 2 above.

9. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Allibhoy et al. (US 6,980,972 B1) in view of Thornton (US 5,883,940).

Regarding claim 8, Allibhoy teaches the interactive advertisement is capable of being provided via a telephone (col. 4, lines 60-63 & col. 5, lines 3-6) and identifying customer information from the detected response as discussed above in claim 1. Allibhoy even further teaches generating sales leads for sellers to interactively sell/pitch their products in a tailored/customized format to the user because it is more likely to conclude in a successful sale given the user's demonstrated interests (col. 5, lines 20-23; col. 17, lines 50-63; col. 18, lines 10-14).

However, Allibhoy fails to teach an audio processing technique to identify words spoken by the customer into the telephone as part of the response.

In an analogous art, Thornton teaches in an interactive advertising response and sales lead generation system (col. 6, lines 54-64; col. 7, lines 58-67) it is desirable to use voice recognition (audio processing technique to identify words spoken by the customer into the telephone as part of the response) to for generating leads for a variety of goods and services (col. 19, lines 34-37).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify the system of Allibhoy to include audio processing technique to identify words spoken by the customer into the telephone as part of the response as taught by Thornton for the added advantage of enabling increased user comfort and speed of transaction by giving user's the option to speak to the system rather than manually typing/clicking and for the advantage of providing increased user access by enabling visually impaired persons to more easily and comfortably interact with the system.

10. Claims 10 and 28-30 rejected under 35 U.S.C. 103(a) as being unpatentable over Allibhoy et al. (US 6,980,972 B1) in view of Wolff (US 6,247,047 B1).

Regarding claims 10 and 28-30, Allibhoy teaches registering technical and look and feel rules of the content provider/merchant with the network controller/system servers (col. 8, lines 10-17) and identifying preferred customers for the content

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providers (col. 17, lines 40-50; col. 17, lines 65-col. 8, lines 15; col. 22, lines 20-35).

Allibhoy even further teaches generating sales leads for sellers to interactively sell/pitch their products in a tailored/customized format to the user because it is more likely to conclude in a successful sale given the user's demonstrated interests (col. 5, lines 20-23; col. 17, lines 50-63; col. 18, lines 10-14).

However, Allibhoy fails to specifically teach a merchant preferred notification comprising one of a telephone message, facsimile message, or email address.

In an analogous art, Wolff teaches in an interactive sales lead transaction system in which merchants must register (col. 10, lines 46-50; col. 12, lines 10-21; col. 15, lines 10-14) it is desirable to provide a merchant preferred notification comprising one of a telephone message, facsimile message, and email address (all limitations described in col. 11, lines 35-47; col. 12, lines 1-5; col. 13, lines 3-12) for enabling sales lead generation and purchase order routing to merchants without being forced to use the Internet (col. 12, lines 7-9).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify the system of Allibhoy to include a merchant preferred notification comprising one of a telephone message, facsimile message, and email address as taught by Wolff for the added advantage of enabling sales lead generation and purchase order routing to merchants without being forced to use the Internet (Wolff -col. 12, lines 7-9) and for providing increased customer/provider service and satisfaction which increases the value of the service to investors and customers/providers.


Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clyde H. Jones III whose telephone number is 571-272-5946. The examiner can normally be reached on 9-5:30 p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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